IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 20795 of 2004

Between:

G. Tirumala Naidu, S/o. Pedda Venkata Swamy,
(Fair Price Shop Dealer), R/o. Pinnapuram,(V) Panyam(M), Kurnool District.

..... PETITIONER

AND

1 The Joint Collector (Civil Supplies) Kurnool, Kurnool District.
2 Revenue Divisional Officer, Nandyala, Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring action of the 1st respondent in issuing the impugned order in Rc.CS3/369/2004, dated 26-10-2004 vacating the Stay in appeal pending before the 1st respondent is illegal, arbitrary and unconstitutional besides being in utter violation of principles of natural justice and consequently direct the 1st respondent set a side impugned order in Rc.CS3/369/2004, dated 26-10-2004 and dispose of the appeal by giving reasonable opportunity in compliance with the principles of natural justice.

Counsel for the Petitioner:MR.J.RAMACHANDRA RAO

Counsel for the Respondents 1 & 2: GP FOR CIVIL SUPPLIES

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The Court made the following :

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ORDER:

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Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents and perused the material on record.

The petitioner is a Fair Price Shop dealer of Pinnapuram Village, Panyam Mandal, Kurnool District. His authorization was suspended pending enquiry by order dated 24-09-2004 by the 2nd respondent-Revenue Divisional Officer, Nandyala, Kurnool District. Aggrieved by the same, the petitioner preferred an appeal before the 1st respondent-Joint Collector (Civil Supplies), Kurnool, Kurnool District. Having entertained the appeal, the 1st respondent by order dated 08-10-2004 granted stay of the operation of the order dated 24-09-2004 passed by the 2nd respondent. Subsequently, it appears that the 2nd respondent submitted a report stating that the petitioner has misused 100 bags of Food for Work rice by selling the same in the open market without distributing to the labourers and on the basis of the same, the impugned order dated 26-10-2004 has been passed vacating the order of stay.

On a perusal of the impugned order, it is clear that no notice was issued to the petitioner before vacating the stay, Having initially granted interim stay, the first respondent, if for any reason wanted to vary the same ought to have afforded an opportunity of hearing to the petitioner. Since no such procedure was followed, the

impugned order is in clear violation of the fundamental principles of natural justice and liable to be set aside on that ground alone. Consequently, the order of stay granted on 8-10-2004 shall be operative.

Accordingly, the impugned order dated 26-10-2004 is set aside and the writ petition is disposed of, with a direction to the 1st respondent to dispose of the appeal pending on his file as expeditiously as possible, preferably, within a period of two weeks from the date of receipt of a copy of this order. No costs.

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11-11-2004

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Note: Communicate copy today.

To

1 The Joint Collector (Civil Supplies) Kurnool, Kurnool District.
2 The Revenue Divisional Officer, Nandyala, Kurnool District.

3. 2 CCs to G.P. for Civil Supplies, High Court Buildings, High Court of A.P, Hyderabad. (OUT)

4. 2 CD copies.